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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,857	09/28/2001	John S. Hendricks	3960.D19	3260
38598	7590	05/09/2005	EXAMINER	
ANDREWS KURTH L.L.P. 1701 PENNSYLVANIA AVENUE, N.W. SUITE 300 WASHINGTON, DC 20006			WINTER, JOHN M	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/964,857	HENDRICKS, JOHN S.
	Examiner John M Winter	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 February 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 11-19, 21- 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 11-19, 21- 29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claims 11-19, 21- 29 remain pending.
Claims 10 and 20 have been canceled.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

The applicants arguments filed on February 18, 2005 have been fully considered but are not persuasive.

The applicant submits that the prior office action fails to establish a prima facie case of obviousness because neither the Hartrick et al. or Ross references discloses the claimed features of the present invention, specifically the applicant submits that these references fail to disclose the feature of “limiting access to the text material based upon a time parameter” which was rejected via Official notice in the prior action.

The examiner responds that although neither the Hartrick et al. or Ross references disclose this feature it is nevertheless well known, the examiner states that this feature is disclosed by the reference Dedrick (US Patent 5,786,521), Dedrick suggests a system for distributing electronic information wherein a metering mechanism determines whether the user has access to content, one embodiment of this metering mechanism is “pay per time”(Column 1, lines 62-67, -- Column 2 lines 1-13). The examiner submits that the Official notice taken in the prior office action is proper and therefore should be maintained.

See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-19, 21- 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartrick et al., (US Patent No 5,532,920) in view of Ross (US Patent No 5,465,213) and further in view of Dedrick (US Patent 5,786,521).

As per claim 18,

Hartrick et al. ('920) discloses the method of claim 10

Hartrick et al. ('920) discloses a method for storing text for electronic books to be displayed on a viewer, comprising:

displaying an indication of a plurality of electronic books on a viewer;(Figure 11)

selectively displaying pages for the selected electronic book;(Figure 3C)

downloading text material for the selected electronic book from a portable storage medium.(Column 4, lines 45-52)

Hartrick et al. ('920) does not explicitly disclose receiving a request to view one of the electronic books. Ross ('213) discloses receiving a request to view one of the electronic books. (Figure 2) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Hartrick et al. ('920) method with the Ross ('213) method in order to promote the usage of digital media.

Hartrick et al. ('920) does not explicitly disclose limiting access to the text material based upon a time parameter. Dedrick ('521) discloses limiting access to the text material based upon a time parameter (Column 1, lines 62-67, -- Column 2 lines 1-13) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Hartrick et al. ('920) method with the Dedrick ('521) method in order to promote the usage of digital media in intervals practical to the consumer.

Examiner also submits that the citation of the Dedrick reference above has been added as evidence to substantiate the prior Official Notice statement, and does not result in a new issue, and therefore this action will be made Final.

Claim 28 is in parallel with claim 18 and rejected for at least the same reasons.

As per claim 11,

Hartrick et al. ('920) discloses the method of claim 18

wherein the downloading includes downloading the text material from at least one of the following: a smart card; an electronic memory card; and a PCMCIA card.(Column 4, lines 45-52)

Claim 21 is in parallel with claim 11 and rejected for at least the same reasons.

As per claim 12,

Hartrick et al. ('920) discloses the method of claim 18

further including associating a unique key with the text material.(Column 14, lines 15-26)

Claim 22 is in parallel with claim 12 and rejected for at least the same reasons.

As per claim 13,

Hartrick et al. ('920) discloses the method of claim 12 wherein the downloading includes selectively downloading the text material based upon the unique key.(Column 14, lines 27-38)

Claim 23 is in parallel with claim 13 and rejected for at least the same reasons.

As per claim 14,

Hartrick et al. ('920) discloses the method of claim 13 wherein the selectively downloading includes:

comparing the unique key with a key for the viewer; and preventing the downloading if the unique key does not match the key for the viewer.(Column 14, lines 39-50)

Claim 24 is in parallel with claim 14 and rejected for at least the same reasons.

As per claim 15,

Hartrick et al. ('920) discloses the method of claim 18

wherein the downloading includes decrypting the text material.(Column 4, lines 53-57)

Claim 25 is in parallel with claim 15 and rejected for at least the same reasons.

As per claim 16,

Hartrick et al. ('920) discloses the method of claim 18

wherein the downloading includes decompressing the text material.(Column 4, lines 53-57)

Claim 26 is in parallel with claim 16 and rejected for at least the same reasons.

As per claim 17,

Hartrick et al. ('920) discloses the method of claim 18

further including permitting a user to purchase the electronic books.(Figure 11)

Claim 27 is in parallel with claim 17 and rejected for at least the same reasons.

As per claim 19,

Hartrick et al. ('920) discloses the method of claim 18

Official Notice is taken that "limiting access to the text material based upon a number of downloads and viewing of the text material" is common and well known in prior art in reference to digital media. It would have been obvious to one having ordinary skill in the art at the time the invention was made to limit access to the text material based upon a number of downloads and viewing of the text material in order to maximize the potential profitability of the media by allowing it to be repurchased in the future.

Claim 29 is in parallel with claim 19 and rejected for at least the same reasons.

Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to John Winter whose telephone number is **(571) 272-6712**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **(571) 272-6713**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]
(703) 308-1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the Examiner in the Knox Building, 50 Dulany St. Alexandria, VA.

JMW
May 2, 2005

John W. Hayes
JOHN W. HAYES
PRIMARY EXAMINER